



Memorandum

Date: March 9, 1999

To: CALFED Policy Group

From: Lester A. Snow

Subject: CALFED Water Acquisitions-Issues and Options

Over the last several months, CALFED agencies have been considering a number of issues that relate both to the environmental water account (EWA) pilot study and implementation of CVPIA Section 3406(b)(2) ("(b)(2) actions"). At this point, Interior has decided against pursuing the creation of a large-scale EWA and using EWA assets to repay state and federal contractors for the impacts of implementing the (b)(2) actions. It remains unclear whether Interior will reimburse water to state and federal contractors by other means.

IMMEDIATE ISSUE: How To Implement (b)(2) Actions

As the April 15 start of the Vernalis Adaptive Management Plan (VAMP) approaches, DWR needs to decide whether it will cooperate with Interior in implementing the VAMP. Interior needs to decide whether and how it will resolve DWR's concerns with participating in VAMP and the other (b)(2) actions. The options for resolving these issues include:

- 1) **Interior purchases water with non-CALFED funds.** Although much of the recent discussion has focused on using the federal Bay-Delta Environmental Enhancement Act funding, Interior may be able to identify other funding sources to purchase water for making up for the impacts of the (b)(2) actions.
- 2) **State and Federal governments create a conditional payback agreement.** Before implementing the (b)(2) actions, the federal governments could agree to pay back some or all of the water used for the (b)(2) actions, but conditioned on paying back the original funding source depending on how the court rules in the existing (b)(2) litigation.

CALFED Agencies

California
The Resources Agency
Department of Fish and Game
Department of Water Resources
California Environmental Protection Agency
State Water Resources Control Board

Federal
Environmental Protection Agency
Department of the Interior
Fish and Wildlife Service
Bureau of Reclamation
U.S. Army Corps of Engineers

Department of Agriculture
Natural Resources Conservation Service
Department of Commerce
National Marine Fisheries Service

- 3) **State and Federal governments decide how much water must be reimbursed to state and federal contractors.** This option breaks out into different decisions by the state and federal government.

The State needs to determine what kind of "payback" for the water supply impacts of implementing the (b)(2) actions it will require as a condition of participating in the actions. There are several options:

- (a) Require repayment of impacts to both CVP and SWP contractors.
- (b) Require repayment of impacts to only SWP contractors.
- (c) Require no repayment, under any of the following theories:
 - (i) On average over the years, the State gains water from implementation of the CVPIA actions
 - (ii) The majority of impacts are caused by implementing the VAMP. The VAMP is an implementation plan for Bay Delta standards. Under the 1994 Bay Delta Accord, the State and Federal projects agreed to meet these standards.
 - (iii) Federal-State cooperation

The Federal Government needs to decide whether and how it will make up for the impacts to water contractors due to implementation of the (b)(2) actions. The federal options include:

- (a) Provide no reimbursement for (b)(2) impacts for any user
- (b) Reimburse (b)(2) impacts for both SWP and CVP contractors
- (c) Reimburse (b)(2) impacts to the SWP contractors only
- (d) Reimburse (b)(2) impacts to the SWP contractors only for those non-VAMP impacts

NEAR-TERM ISSUE: EWA PILOT STUDY

Although Interior does not wish to use EWA assets to provide reimbursement to state and federal contractors, CALFED still needs to determine the scope of its EWA Pilot Study, which was proposed in the December 18 Phase 2 Report. The DNCT and the Quinn-Spear team are continuing to prepare models for an EWA operation and plan to operate a mock EWA this year, but without real water. Reclamation has discussed acquisition of various water resources with potential sellers, possibly for use in an EWA pilot study. CALFED now needs to decide how to proceed from here. CALFED's options for this year include:

- a) Discontinue water acquisition efforts for an EWA, but continue with modeling.
- b) Acquire storage space south of the Delta and fill it with some of the water supply generated by "flexing" the Export/Import (E/I) Ratio. This flexible application of the E/I ratio permitted by the Bay-Delta Accord and the State's water quality standards, depending on hydrological and biological conditions.
- c) Purchase small amount of EWA water and, possibly, take one additional fish-protection action this year.